

BILL ANALYSIS

Senate Research Center

S.B. 1030
By: Armbrister
Natural Resources
7-19-93
Enrolled

BACKGROUND

Certain regions in Texas historically have not considered water marketing or banking to meet long-term water needs. However, the ever-increasing difficulty in obtaining permits, environmental constraints, the potential for the Texas Water Commission to issue term permits or re-adjudicate unperfected rights, and the lack of potential sites for reservoir development, have spurred interest in examining alternative methods of meeting water supply needs.

To establish a market mechanism in Texas, without the benefit of a court decree, a broker is needed to help establish and allow the market to develop and facilitate the interaction between potential buyers and sellers. To accomplish this objective, a program with services similar to a bank might provide a viable solution. This bank would have the ability to accept deposits, allow withdrawals, and provide financing to achieve these ends.

PURPOSE

As enrolled, S.B. 1030 creates and provides for the operation of a water bank and the establishment and collection of fees associated thereto.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is granted to the Texas Water Development Board under SECTION 1 (Sections 15.703(b) and 15.705, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 15, Water Code, by adding Subchapter K, as follows:

SUBCHAPTER K. TEXAS WATER BANK

Sec. 15.701. DEFINITIONS. Defines "deposit," "depositor," "person," "transfer," "water bank" or "bank," and "water right."

Sec. 15.702. CREATION OF BANK. Requires the Texas Water Development Board (board) to establish the Texas Water Bank (water bank). Requires the board to administer the water bank to facilitate the transfer of water from all sources as necessary to provide sources of adequate water supplies for use within Texas.

Sec. 15.703. OPERATION OF BANK, RULES. (a) Authorizes the board to take all actions necessary to operate the water bank and facilitate the transfer of water rights from the water bank for future beneficial use. Sets forth possible actions the board may take.

(b) Authorizes the board to adopt rules necessary for the implementation of the water bank.

(c) Authorizes the board to contract with any person to achieve the purposes of this subchapter.

Sec. 15.704. TRANSFERS AND CONDITIONS. (a) Authorizes up to 50 percent of a water right to be deposited in the water bank for an initial term of up to 10 years, during which time the water right is exempt from cancellation by the commission. Exempts a water right from cancellation only once even if it has been transferred or redeposited.

(b) Prohibits the Texas Water Commission (commission) from bringing a cancellation action for a 10-year period following commission approval of any necessary actions relating to a water right which has been transferred while on deposit in the water bank.

Sec. 15.705. FEES. Authorizes the board to charge a transaction fee per transfer not to exceed \$500 to cover expenses of the board in operating the water bank. Exempts political subdivisions of the state from any transfer fees established under this subsection. Requires the board to establish, by rule, fees in an amount necessary to pay for the ongoing administration of the water bank and which shall consider the duration, type, and other aspects of the transfer. Requires the transition fee to be paid by the depositor upon a transfer of rights on deposit with the bank, or a transfer that occurs within one year of withdrawal of any water right deposited in the bank. Requires the board to place the fees into the Water Assistance Fund where it shall be separately accounted for and used only for the administration and operation of the water bank by the board.

Sec. 15.706. REPORTS. Requires the commission and the board to provide ready access by the other agency through manual or computer capabilities, to all water rights permits, final water rights decisions, applications, amendments, contracts, computerized files, computer programs, and other information related to water rights and to the operation of the water bank. Requires the commission to provide the board with all notices of proposed water rights actions.

Sec. 15.707. WATER BANK ACCOUNT. (a) Creates the water bank account as a special account in the water assistance fund. Sets forth the composition of the water assistance fund.

(b) Authorizes the money in the account to be used only for the administration and operation of the water bank by the board under this subchapter.

Sec. 15.708. Prohibits anything in this subchapter from preventing the sale or purchase of water or water rights by or through persons or entities outside of the water bank or the creation and operation of water banks by other persons to the extent allowed by law.

SECTION 2. Requires the board to report to the governor and the members of the legislature concerning the implementation of the water bank by December 1994. Requires the board to coordinate with the commissioner and the Texas Parks and Wildlife Department in preparing the report. Requires the report to identify ways to assist in providing flows to meet instream, water quality, fish and wildlife habitat and bay and estuary inflow needs through the water rights marketing and transfer process. Requires the topic, after the first report, to be addressed in the biennial reports required in Section 6.156.

SECTION 3. Amends Section 15.011, Water Code, by adding Subsection (c), to authorize the board to transfer money in the fund to the water bank account to be used by the board for administration and operation of the water bank.

SECTION 4. Amends Section 12.112, Water Code, as follows:

Sec. 12.112. FEES: EXEMPTIONS. (a) Includes the board among those entities that are exempted from payment of any filing, recording, or use fees required by this code.

(b) Exempts the board from payment of any other fees required by this code or any other statute relating to applications for water rights or amendments thereto, or relating to water resources administration to the extent the board has not contracted for the sale of water under a water right upon which such fees are based.

SECTION 5. Emergency clause.
Effective date: 90 days after adjournment.